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PRESIDENT

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EXECUTIVE VICE PRESIDENT

LEGISLATIVE ALERT

April 16, 2013

Dear Representative:

The AFL-CIO is vehemently opposed to the so-called Working Families Flexibility Act (H.R. 1406) which would amend the Fair Labor Standards Act to allow employer-controlled compensatory time off to be substituted for paid overtime. We urge you to vote against this legislation.

The Working Families Flexibility Act offers workers only an empty promise. It does not assure that the decision to substitute comp time for cash overtime payments will be voluntary. While the bill nominally makes it unlawful for an employer to coerce or intimidate an employee into accepting comp time, it does nothing to prevent an employer from discriminating – in hiring or in the award of overtime – against those employees who want paid overtime compensation. Nor does it provide for penalties that would cause an employer to have second thoughts about coercing employees. Additionally, all too many workers are currently victimized by wage theft because the Department of Labor does not have the resources to investigate violations of the wage and hour laws.

There are no aspects of the Working Families Flexibility Act that are truly protective of employee rights. The employer is given virtually complete control over when the overtime is used. Under H.R.1406, after the employee makes a request to use the comp time, the employer's only responsibility is to permit the employee "to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the employer." There is no responsibility on the part of the employer to respond in a timely manner or accommodate an employee request. There should be no assumption made that this bill would allow parents to more easily meet family needs.

The Fair Labor Standards Act (FLSA) established the 40-hour workweek to allow employees to spend more time away from work and encourage employers to hire more staff when workloads increase. The Working Families Flexibility Act however would encourage employers to demand longer hours because it would allow employers to receive the benefits of overtime work at no additional cost. Employers could pay workers nothing at all for overtime when the work is performed, and schedule compensatory time only at their convenience. Under H.R. 1406, mandatory overtime would become cheaper for employers and result in more unpredictable work schedules and higher day care costs for workers.

The AFL-CIO believes employees deserve fair wages, safe working conditions, and more flexible schedules to meet both workplace and family needs. We urge you to support the Healthy Families Act, Paycheck Fairness Act, Fair Minimum Wage Act, and paid family and medical leave insurance so that all employees will be afforded more equitable, flexible and predictable working conditions.

The Working Families Flexibility Act (H.R.1406) will increase flexibility for employers, not employees. In this era of chronically high unemployment, it would undermine the incentive created by the cash wage overtime requirement of the Fair Labor Standards Act and to hire new workers to meet increased demand. We urge you to oppose this misguided legislation.

Sincerely,

William Samuel, Director
Government Affairs Department